



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
NEW JERSEY STATE BOARD OF OPTOMETRISTS  
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

CHRISTINE TODD WHITMAN  
Governor

JOHN J. FARMER, JR.  
Attorney General

MARK S. HERR  
Director

Mailing Address:

PO BOX 45012  
NEWARK NJ 07101  
(973) 504-6440

By Certified and Regular Mail. *As of 8/11/00*

Dr. Thomas O'Kane, O.D.  
Cohen's Fashion Optical  
Journal Square  
2877 Kennedy Blvd.  
Jersey City, New Jersey 07308

August 11, 2000

Re: Advertising violation  
Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Dr. O'Kane:

This letter is to advise you that the New Jersey State Board of Optometrists (the "Board") has had an opportunity to review information concerning an advertisement which ran in the Jersey Journal on several occasions. A copy of the advertisement is attached hereto. Specifically, the information reviewed included an offer for one or two pairs of daily wear contact lenses.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(h) and N.J.A.C. 13:38-1.2(c)6 in that your advertisement failed to include the contact lens care kit. Additionally, the advertising regulation in question requires that where a contact lens care kit is not included that the advertisement include a particular statement concerning the maintenance of the contact lens.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of formal disciplinary proceedings, should you consent to:

1. cease and desist from advertising the sale of contact lenses without including the information on the contact lens care kit or, if the follow up care instructions are not included, the disclaimer language concerning the proper maintenance of the contact lenses as set forth in N.J.A.C. 13:38-1.2(c)6.

2. the issuance of a formal reprimand;
3. pay a penalty in the amount of \$500.00 (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter);

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Carmen A. Rodriguez, who may be reached at (973) 693-5056.

If you elect to settle this matter now you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's P Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD  
OF OPTOMETRISTS

By:   
Susan Gartland  
Executive Director

ACKNOWLEDGMENT: I Thomas O'Kane, hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$500.00 (to be paid upon signing of this acknowledgment), and to comply with all other requirements set forth in the settlement letter.

  
Thomas O'Kane, O.D.

Dated:

cc: Carmen A. Rodriguez, Deputy Attorney General  
CM: RRR 7000 0600 0024 0231 7789